

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

_____)	
INTRACOMM, INC. <u>et al.</u>)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 05-0955
)	
KEN S. BAJAJ <u>et al.</u>)	
)	
Defendants.)	
_____)	

ORDER

This matter comes before the Court on Plaintiffs' Motion For Remand.

The Court finds that Count II of Plaintiffs' Complaint states a claim for relief that relies upon an interpretation of the Fair Labor Standards Act of 1938. 29 U.S.C. §§ 201 -219 (2000). This means that the case could have originally been brought in a United States District Court under federal question subject matter jurisdiction. 28 U.S.C. § 1331 (2000). Thus, Defendants' had the ability to remove the case from the Fairfax County Circuit Court to the United States District Court for the Eastern District of Virginia, Alexandria Division. Id. at § 1441(a).

While only one of the eight counts in Plaintiffs' Complaint concerned a federal question, all eight counts were properly

removed under § 1441(c) because “[w]henver a separate and independent claim or cause of action within the jurisdiction conferred by § 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein.” Id. at § 1441(c). Thus, the Court has the ability to “determine all issues therein” and not just the federal question claim in Count II. Id.

The Court has discretion to remand “all matters in which State law predominates” Id. As an initial matter, it appears to the Court that Counts I and III-VIII are sufficiently interwoven and connected to the federal question claim in Count II that § 1441(c) does not apply in this matter. However, even if Counts I and III-VIII are separate and independent, the Court finds that it will retain all eight counts of Plaintiffs’ Complaint for the sake of judicial economy. Finally, Defendants’ Notice of Removal was timely filed within thirty days in the proper place in compliance. Id. at § 1446. It is hereby

ORDERED that Plaintiffs’ Motion For Remand is DENIED.

/s/

CLAUDE M. HILTON
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia
September 12, 2005

